C. Revenue Recovery

K 1952.

File No. 52.

P 8F

Legal Deptt.

A **BRANCH**

Subject:— Opinions under the Revenue Recovery Act, 1890.

File No. C. Revenue Recovery/52

Gen. 194 e.

255-A

C O N T E N T S.

Legal Department File No. O. Revenue Recovery/52

Sr. No.	R.I./	O.No.	Subject	pages
			Opinions under the Revenue Recovery Act.1890.	
1.		1234/25-1-52	Whether summary recovery as arrears of land revenue can be legally enforced by attachment of the lessee's bank assets without recover to a civil court.	1
2.	11692 17-1-52	1109 17-1-52	Whether the amount can can be recovered from Shri.V. Badami as ad arrears of land revenue under the provisions of the Revenue recovery Act,1890.	3
3.		3170 27-2-52	Whether there is allegation that the licensee renounced his interest in the family property.	5
4.	9092 7-5-52	9092 7-5-52	Whether the amount of 4497/ from one Tayab Dawood Diwan can be recovered on account of arrears of Sales Tax.	7
5.		13465 18-6-52	Revenue Recovery Act,1890 is not presumably in force in Hyderabad.(note R.L.A.'s opinion no 6196 dt.17-4-51) may be taken to have been modified.	9
6.	13935 12-7-52		Whether the Collectorof Ahmedabad can recover the amount of Court Fee Stamp under section 3 of the Revenue Recovery Act,1890.	11
7		18273/A 3-11-52	Whether the the properties standing in to the defaulter's name bearing C.T.No.1169and 1177 in H ward kolhapur valued at Rs.500/- and Rs.2500/-respectively are his self acquired properties-	13

M.K.D.
20-6-56
C.S

Office of the R.L.A.

The arrears due from the defaulter can be recovered from his bank assets as arrears of land revenue under the Revenue Recovery Act, 1890, without recourse to a civil court.

Sd-/-
Remembrancer of Legal Affairs.

M.R.D.
19-6-56
C.4

U.R. to R.H.D., No. 1234, dated the 25th January 1952.

L.D.R.I.No. 1109
dt.17-1-52.

Submitted with reference to the note of the Education Department at page 2 3 ante.

Attention is invited to the R.L.A.'s opinion No.127-confl., dated 24-2-49 at page 15 int the file O. Revenue Recovery/ 1949 below slip marked "A".

The facts of the case may be summarised as under:-

Shri F.V.Badami who was sponsored by Govt. for further training abroad has committed a breach of the terms of the bond with Govt. by his failure to serve Govt.for a period of five years. He has so far paid Rs.600/-only and the following sums are still recoverable from him.

(a) Balance of amount spent in India Rs. 255-9-8

(b) Amount spent in U.K. £ 585-3-8

In terms of thebond the above amount is recoverable from him as an arrear of land revenue. The costs of his traning are recoverable as an arrear of land revenue under the Bombay Land Revenue Code 1879 if Shri Badami has any property moveable or immoveable in the State of Bombay. If he has no property in the State of Bombay, it would still be possible as opined by the R.L.A. in his opinion No.127-confl. dated 14-2-1949 to recover from him the costs of his traniing as an arrear of land revenue under the provisions of the Revenue Recovery Act.1890.

The papers have been sent to the R.L.A. for approval of the draft put up for the Collector Bombay at p.11 in the connected file(ship marked"B") The draft letter appears to be in order.

Sd/-
12-2-52
D.S./Civil

R.T.K. Sd/- 12-2

R.L.A. Sd/- 13-2

U.R.to E.D. No. 2376 dated the 13-2 52
13-2-52

M.R.D.
19-6-56
C.2

OFFICE OF THE R.L.A.

There is no allegation that the licensee renounced his interest in the family property. His father is contending that the property which is now proceeded against by the Collector is not a coparcenery property but his self-acquired property. Although the property is purchase purchased in his name, it wouldnot be considdred his self-acquired property unless it is proved that it was purchased without the assistance of the ancestral property. This is however a question of fact. If from the evidence it is found that it is not a coparcenery property, action may be dropped.

Sd/-
27-2

Remembbancer of Legal Affairs.

M.R.D.
19-6-56
C.4

U.R.No R.D.No.3170 dated the 27 th February 1952.

7

Legal Department.
9092/7-5-52.

Please see the F.D. letter to the Government of Saurashtra at. p. 3 of the correspondence section requesting that Government to arrange to recover a sum of Rs.4497/- from one Tayab Dawood Diwan due on accounr of arrears of sales tax. The assessee who was carrying on business in Bombay wound it up and left for Bantwa in Saurashtra without paying the arrears. In the letter to the Saurashtra Government, the F.D. had made a statement that as Saurashtra was a part b State, the Revenue Recovery Act, 1890, did not apply there. With regard to this point the Saurashtra Government has forwarded a copy of the opinion of the R.L.A. of Saurashtra in which he has pointed out that the above statement is not correct in view of section 2 of opinion and Revenue Law(Extension of Application) Act, 1950. The opinion of the Saurashtra Government is shown to this Department for information.
The view expressed by the R.L.A. of Saurashtra is correct.
The papers are seen and returned.

Sd/-
14-5-52
D.S(Civil Opinion) Reply may be as suggested at A
Sd/-15-5

A A to be reply
Sd--/-
15-5

M.R.D.
10-6-56
C.4

U.R.to F.D. No. 8342 dt. 19-5-52

Office of the R.L.A.

R.L.A.'s opinion No,6196,dated the 17th April 1951.

The view taken by the Secretary to Government of-Madya Madhya Bharat, Revenue Department in his letter dated the 19th April 1952 in correct. The tentative view expressed is R.L.A's opinion No, 6196,dated the 17th April 1951 may be taken to have been modified.

Sd/-
16-8

Remembrancer of Legal Affairs.

U.R. to R.D. No. 13464 dated the 18th August 1952.

M.R.D.
19-6-56
C.4

L.D.No. 13936 dt/12-7-52
(Taken over from Shri Bindra

Submitted with reference to the R.D.note at pp1-2 ante. It appears that a sum of Rs. 1000/- is to be recovered from the Defendants in Ahmedabad C.S. No. 61 of 1950 on account of Court fee stamp. The Defendants are at present residing in Mahuva in Saurashtra State. The R.D. proposes to instruct the Collector of Ahmedabad to take action as provided in section 3 of the Revenue Recovery Act, 1890. The R.L.A. is erequested to advise.

2. Under sub-section(1) of sec. 3 of the Revenue Recovery Act, 1890, where a sum recoverable as an arrear of land revenue is payable to a Collector by a defaulter being or having property in a district other than that in which which the sum is payable, the Collector may send to the Collector of that other district a certificate in the form prescribed by the Schedule. On receiving such certificate the other Collector can proceed to recover the amount stated therein if it were an arrear of land revenue which had accrued in his own district. The Revenue Recovery Act, 1890, has now been extended to the pt. B.States(Vide section 2 of the Opium and Revenue Laws(Extension of Application) Act, 1950. The plaintiff in this case had filed the suit for accounts as a pauper, As the suit was decreed in her favour the Defendants have been ordered by the Court to pay to Govt. the amount of the Court fee. The sum of Rs.1000/- is accordingly due to Govt. under the decree and the same would therefore be recoverable as arrears of land revenue. The course proposed by the R.D. is therefore correct. The papers may be seen and returned to the R.D.

M.R.D.
20-6-56
C.4

Sd/-
17-9-52
D.S.(Opinion) A may be done

R.T.K. Sd/-
17-9

R.L.A. Sd/-
17-9

M.R.D. U.R. to R.D, No.15415/A dt. ofx 19-9-52

OFFICE OF THE R.L.A.

In view of the facts stated by the Collector in his letter dated the 29th September 1952 at page 29 ante there would be no objection to treating both the properties C.T.S.No. 1169 and C.T.S.No. 1177 as coparcenery properties and putting to sale under section 155 of the Land Revenue Code the right title and interest of the defaulter in them.

Sd/-
1-11

Remembrancer of Legal Affairs.

M.R.D.
19-6-56
C.4

U.R.to R.D No.18273/A dated the 3rd November 1952.